

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
(Norfolk Division)**

BONNIE FAIRBANK,

Plaintiff,

v.

Case No. 4:13-cv-9

**LAW OFFICES OF SHAPIRO BROWN &
ALT, LLP, et al.**

Defendants.

**DEFENDANTS' RESPONSE TO
PLAINTIFFS' MOTION FOR SETTLEMENT CONFERENCE**

Defendants Law Offices of Shapiro, Brown & Alt, LLP ("SBA") and Professional Foreclosure Corporation of Virginia ("PFC") (collectively, "Defendants"), by counsel, submit their Response to Plaintiff's Motion for Settlement Conference (ECF No. 24).

1. Plaintiff filed her Complaint on January 11, 2013, alleging three claims: (1) a violation of section 1692e of the Fair Debt Collection Practices Act ("FDCPA"); (2) a violation of section 1692f of the FDCPA; and (3) a violation of section 1692c(a)(2) of the FDCPA. Plaintiffs requested statutory damages, actual damages, attorneys' fees and costs. (ECF No. 1.)

2. This Complaint was the twelfth (12) lawsuit filed by counsel for Plaintiff against Defendants.¹

¹ The previously filed cases are: *Moore v. Law Offices of Shapiro & Burson, LLP*, Civil Action No: 4:11-cv-00122 ("Moore"); *Andrade v. Law Offices of Shapiro & Burson, LLP* ("Andrade"); *Waters-Levy v. Law Offices of Shapiro & Burson, LLP* ("Waters-Levy"); *Akbar v. Law Offices of Shapiro & Burson, LLP*, Civil Action No. 1:11-cv-1194 ("Akbar"); *Carlson v. Law Offices of Shapiro & Burson, LLP, et al.*, Civil Action No. 2:12-cv-255 ("Carlson"); *Gudym v. Law Offices of Shapiro, Brown & Alt, LLP* ("Gudym"); *Payne v. Law Offices of Shapiro, Brown & Alt, LLP, et al.* ("Payne"), Civil Action No. 4:12-cv-87; *MacNaughton v. Law Offices of Shapiro, Brown & Alt, LLP et al.* ("MacNaughton"); *Campos-Carranza v. Law Offices of*

3. Subsequent to this lawsuit, counsel for Plaintiff filed an additional suit against Defendants; one of the other two suits at issue in this Motion to Consolidate: *Tsvetovat et al. v. Law Offices of Shapiro Brown & Alt, LLP et al.*, Civil Action No. 4:13-cv-00016. Additionally, Plaintiff's counsel filed a putative class action alleging the same legal theories in this case, which the Hon. Robert E. Payne ordered transferred to this Division from the Richmond Division of this Court on May 8, 2013. *See Boyd et al. v. Law Office of Shapiro, Brown, and Alt LLP et al.*, Civil Action No. 3:12-cv-00700, Docket No. 28 (hereinafter, "Boyd") (attached hereto as **Exhibit 1**).

4. Defendants requested that *Boyd* be consolidated with *Moore* Civil Action No. 4:11-cv-00122 for pretrial and settlement purposes (*Boyd*, Docket No. 14), which counsel for Plaintiffs opposes (*Boyd*, Docket No. 23).

5. Plaintiffs never made a settlement demand to resolve this case alone. Instead, on March 11, 2013, Plaintiff accepted Defendants' Rule 68 Offer of Judgment for \$2,500.00, plus reasonable attorneys' fees and costs to be agreed by the parties or determined by the Court. (ECF No. 11).

6. Defendants, in good faith, have engaged in discussions to resolve the pending fee motions, including making specific offers. When Defendants' offers were rejected, they requested that counsel for Plaintiff provide their bills/time sheets (and offered to treat them as confidential and produced for settlement purposes only). Since Plaintiff's counsel's contemporaneously created time sheets/entries must be filed with the court and shared with Defendants in order to support the amount of fees they are claiming in these cases, Defendants

Shapiro, Brown & Alt, LLP ("Campos-Carranza"); *Redditt v. Law Offices of Shapiro Brown & Alt, LLP et al.*, Civil Action No. 2:12-cv-00521 ("Redditt"); *Boyd et al. v. Law Office of Shapiro, Brown, and Alt LLP et al.*, Civil Action No. 3:12-cv-00700 ("Boyd").

asked that the bills be provided during settlement discussions so that Defendants could understand the amount of fees Plaintiffs are requesting so and the parties could continue to try to resolve the fee requests without the necessity of briefing/hearing with the Court. Plaintiffs would not agree and responded that they would only provide information concerning actual time expended (and for what and by whom) in their motion or as part of a binding mediation or arbitration.

7. Defendants do not oppose having a single Judge resolve the fee applications in this case, *Tsvetovat*, and *Redditt*, and they also submit *Boyd* should be consolidated with *Moore* for pretrial and settlement purposes.² In any event, Defendants oppose any attempt by Plaintiff to further increase the fees and costs in this case.

WHEREFORE, Defendants respectfully request that the pending fee applications in this case, *Tsvetovat*, and *Redditt* be decided by a single Judge of this Court, submit *Boyd* should be consolidated into *Moore* for pretrial and settlement purposes, and for such other and further relief as this Court deems appropriate and just.

² Despite statements by Plaintiff to the contrary, Plaintiff did not seek the consent of Defendants for the relief they now seek. Instead, she sought consent to have a magistrate judge conduct a binding mediation to resolve the pending motions for fees and costs, while she reserved the right to seek further fees for attending a binding mediation. Plaintiff takes this position at this late stage despite the fact that she has already accepted an Offer of Judgment identifying how her claims for fees and costs would be resolved (“fees and costs are to be in an amount as agreed to between counsel for the parties or as determined by the Court”), filed separate motions for fees and costs in all three cases before seeking consolidation, and oppose consolidation of *Boyd*.

Dated: May 30, 2013

Respectfully submitted,

**LAW OFFICES OF SHAPIRO, BROWN
AND ALT, LLP**

**PROFESSIONAL FORECLOSURE
CORPORATION OF VIRGINIA**

By: /s/ Bizhan Beiramee

Bizhan Beiramee (VSB No. 50918)
MCGINNIS WUTSCHER BEIRAMEE LLP
7508 Wisconsin Avenue, Second Floor
Bethesda, Maryland 20814
(703) 483-9600 (telephone)
(703) 483-9599 (facsimile)
E-mail: bbeiramee@mwblp.com

Ethan G. Ostroff (VSB No. 71610)
Megan E. Burns (VSB No. 35883)
John C. Lynch (VSB No. 39267)
TROUTMAN SANDERS LLP
222 Central Park Avenue, Suite 2000
Virginia Beach, VA 23462
Telephone: (757) 687-7541
Facsimile: (757) 687-1541
E-mail: ethan.ostroff@troutmansanders.com
E-mail: megan.burns@troutmansanders.com
E-mail: john.lynch@troutmansanders.com

*Counsel for Defendants Shapiro, Brown &
Alt, LLP and Professional Foreclosure
Corporation of Virginia*

CERTIFICATE OF SERVICE

I hereby certify that on this 30th day of May, 2013, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following CM/ECF participants:

Counsel for Plaintiff

Matthew J. Erasquin, Esq. (VSB No. 65434)
CONSUMER LITIGATION ASSOCIATES,
P.C.
1800 Diagonal Road, Suite 600
Alexandria, VA 22314
(703) 273-7770 – Telephone
(888) 892-3512 – Facsimile
matt@clalegal.com
janelle@clalegal.com

Kristi Cahoon Kelly, Esq. (VSB No. 72791)
SUROVELL ISAACS PETERSEN &
LEVY PLC
4010 University Drive, 2nd Floor
Fairfax, VA 22030
(703) 277-9774 – Telephone
(703) 591-9285 – Facsimile
kkelly@sipfirm.com

Leonard A. Bennett, Esq. (VSB No. 37523)
Susan Rotkis, Esq. (VSB No. 40639)
CONSUMER LITIGATION ASSOCIATES,
P.C.
763 J. Clyde Morris Boulevard, Suite 1-A
Newport News, VA 23601
(757) 930-3660 – Telephone
(757) 930-3662 – Facsimile
lenbennett@clalegal.com
srotkis@clalegal.com

Dale W. Pittman, Esq. (VSB No. 15673)
THE LAW OFFICE OF DALE W. PITTMAN,
P.C.
The Eliza Spotswood House
112-A West Tabb Street
Petersburg, VA 23803
(804) 861-6000 – Telephone
(804) 861-3368 – Facsimile
dale@pittmanlawoffice.com

/s/ Bizhan Beiramee

Bizhan Beiramee (VSB No. 50918)
MCGINNIS WUTSCHER BEIRAMEE LLP
7508 Wisconsin Avenue, Second Floor
Bethesda, Maryland 20814
(703) 483-9600 (telephone)
(703) 483-9599 (facsimile)
E-mail: bbeiramee@mwblp.com

Ethan G. Ostroff (VSB No. 71610)
Megan E. Burns (VSB No. 35883)
John C. Lynch (VSB No. 39267)

TROUTMAN SANDERS LLP
222 Central Park Avenue, Suite 2000
Virginia Beach, VA 23462
Telephone: (757) 687-7541
Facsimile: (757) 687-1541
E-mail: ethan.ostroff@troutmansanders.com
E-mail: megan.burns@troutmansanders.com
E-mail: john.lynch@troutmansanders.com

*Counsel for Defendants Shapiro, Brown &
Alt, LLP and Professional Foreclosure
Corporation of Virginia*